

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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DINO PALADINO,	:
	:
Plaintiff,	:
	:
- against -	:
	:
DHL (USA), INC. AND	:
INTERNATIONAL BROTHERHOOD OF	:
TEAMSTERS AIR FREIGHT CHAUFFEURS,	:
HANDLERS, WAREHOUSEMEN & ALLIED	:
WORKERS UNION NO. 295,	:
	:
Defendants.	:
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**DECLARATION OF ANDREW S. GOODSTADT IN SUPPORT OF  
DHL EXPRESS (USA), INC.'S MOTION FOR SUMMARY JUDGMENT**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

ANDREW S. GOODSTADT, an attorney duly admitted to practice in the State of New York, hereby declares under penalty of perjury:

1. I am a partner in the law firm of Thompson Wigdor & Gilly LLP, counsel of record for Defendant DHL Express (USA), Inc. ("DHL"). I submit this declaration in support of DHL's Motion for Summary Judgment.
2. Attached hereto as Exhibit A are true and correct copies of the cited portions of Plaintiff Dino Paladino's ("Plaintiff") deposition, taken by DHL on July 14, 2008, August 25, 2008 and September 22, 2008.
3. Attached hereto as Exhibit B are true and correct copies of the cited portions of Plaintiff's deposition, taken by Defendant Local 295 on August 26, 2008.
4. Attached hereto as Exhibit C are true and correct copies of the cited portions of Jeffrey Sidorski's deposition, taken by Plaintiff on October 8, 2008.
5. Attached hereto as Exhibit D are true and correct copies of the cited portions of

John Nuttall's deposition, taken by Plaintiff on October 3, 2008.

6. Attached hereto as Exhibit E are true and correct copies of the cited portions of Vincent Bruno's deposition, taken by Plaintiff on October 31, 2008.

7. Attached hereto as Exhibit F is a true and correct copy of the Pre-Employment Application for Plaintiff, dated March 23, 1985, produced by DHL and bates stamped as DHL 460-62.

8. Attached hereto as Exhibit G is a true and correct copy of the Employee Payroll/Personnel Master Record for Plaintiff, dated April 1, 1985, produced by DHL and bates stamped as DHL 415.

9. Attached hereto as Exhibit H is a true and correct copy of the Employee Payroll/Personnel Master Record for Plaintiff, dated September 9, 1986, produced by DHL and bates stamped as DHL 454.

10. Attached hereto as Exhibit I is a true and correct copy of the Employee Master Record for Plaintiff, dated October 31, 1995, produced by DHL and bates stamped as DHL 400.

11. Attached hereto as Exhibit J is a true and correct copy of the Employee Master Record for Plaintiff, dated January 17, 1995, produced by DHL and bates stamped as DHL 402.

12. Attached hereto as Exhibit K is a true and correct copy of the Employee Master Record for Plaintiff, dated September 13, 1994, produced by DHL and bates stamped as DHL 405.

13. Attached hereto as Exhibit L is a true and correct copy of the Employee Master Record for Plaintiff, dated March 19, 2003, produced by DHL and bates stamped as DHL 394.

14. Attached hereto as Exhibit M is a true and correct copy of the Collective

Bargaining Agreement Between Airborne Express, Inc. and Local 295, which has an effective date of February 29, 2004 through February 28, 2009, produced by DHL and bates stamped as DHL 1-55.

15. Attached hereto as Exhibit N is a true and correct copy of a Step 6 letter to Plaintiff, dated November 5, 2005, produced by DHL and bates stamped as DHL 137.

16. Attached hereto as Exhibit O is a true and correct copy of a Step 7 letter to Plaintiff, dated August 27, 2005, produced by DHL and bates stamped as DHL 138.

17. Attached hereto as Exhibit P is a true and correct copy of a Step 6 letter to Plaintiff, dated April 30, 2005, produced by DHL and bates stamped as DHL 139.

18. Attached hereto as Exhibit Q is a true and correct copy of a handwritten note signed by Mike Mackey, dated January 18, 2005, produced by DHL and bates stamped as DHL 135.

19. Attached hereto as Exhibit R is a true and correct copy of a handwritten note signed by Mike Mackey, dated January 4, 2006, produced by DHL and bates stamped as DHL 132.

20. Attached hereto as Exhibit S is a true and correct copy of the decision by Arbitrator Stanley Aiges in *Airborne Express v. Local 295, IBT*, dated February 27, 1995, produced by Defendant Local 295 and bates stamped L295-55-62.

21. Attached hereto as Exhibit T is a true and correct copy of Plaintiff's termination letter from Jeffrey Sidorski, dated January 9, 2006, produced by DHL and bates stamped as DHL 145.

22. Attached hereto as Exhibit U is a true and correct copy of an undated handwritten note by Robert Giammarino, produced by DHL and bates stamped as DHL 133-34.

23. Attached hereto as Exhibit V is a true and correct copy of DHL's Spring 2006

Courier Answer Handbook, produced by DHL and bates stamped as DHL 56-130.

24. Attached hereto as Exhibit W is a true and correct copy of an investigation letter to Plaintiff from Jeffrey Sidorski, dated January 7, 2006, produced by Defendant Local 295 and bates stamped as L295-2.

25. Attached hereto as Exhibit X is a true and correct copy of Plaintiff's Step 3 grievance form, dated January 10, 2006, produced by DHL and bates stamped as DHL 146.

26. Attached hereto as Exhibit Y is a true and correct copy of Plaintiff's "last chance agreement," dated January 19, 2006, produced by DHL and bates stamped as DHL 144.

27. Attached hereto as Exhibit Z is a true and correct copy of the pickup and delivery analysis for Plaintiff, dated October 9, 2006, produced by DHL and bates stamped as DHL 168-69.

28. Attached hereto as Exhibit AA is a true and correct copy of an e-mail from John Wallace to Jeffrey Sidorski and Carlos Arostegui, dated October 10, 2006, produced by DHL and bates stamped as DHL 486-87.

29. Attached hereto as Exhibit BB is a true and correct copy of a letter from Mike Garcia to Carlos Arostegui, dated October 11, 2006, produced by DHL and bates stamped as DHL 206.

30. Attached hereto as Exhibit CC is a true and correct copy of a document entitled "Freeform Messages Sent to/from Route," dated October 9, 2006, produced by Defendant Local 295 and bates stamped as L295-15-16.

31. Attached hereto as Exhibit DD is a true and correct copy of an e-mail from Carlos Arostegui to himself and Jeffrey Sidorski, dated October 11, 2006, produced by DHL and bates stamped as DHL 172-73.

32. Attached hereto as Exhibit EE is a true and correct copy of Plaintiff's Letter of

Investigation from Carlos Arostegui, dated October 10, 2006, produced by DHL and bates stamped as DHL 175.

33. Attached hereto as Exhibit FF is a true and correct copy of an e-mail from Jeffrey Sidorski to himself and Carlos Arostegui, dated October 12, 2006, produced by DHL and bates stamped as DHL 174.

34. Attached hereto as Exhibit GG is a true and correct copy of Plaintiff's termination letter from Jeffrey Sidorski, dated October 11, 2006, produced by Plaintiff and bates stamped as Paladino 89.

35. Attached hereto as Exhibit HH is a true and correct copy of Plaintiff's Step 2 grievance form, dated October 11, 2006, produced by DHL and bates stamped as DHL 147.

36. Attached hereto as Exhibit II is a true and correct copy of Plaintiff's Step 3 grievance form, dated October 11, 2006, produced by DHL and bates stamped as DHL 148.

37. Attached hereto as Exhibit JJ is a true and correct copy of the Executive Board Minutes from the Local 295 Executive Board Meeting, dated October 24, 2006, produced by Defendant Local 295 and bates stamped as L295-128-30.

38. Attached hereto as Exhibit KK is a true and correct copy of the Complaint and Demand for Jury Trial in this action, filed on April 17, 2007, in the United States District Court for the Eastern District of New York.

39. Attached hereto as Exhibit LL is a true and correct copy of a document entitled "2003 Medical Examination Report for Commercial Driver Fitness Determination," dated May 15, 2003, produced by DHL and bates stamped as DHL 383-90.

40. Attached hereto as Exhibit MM is a true and correct copy of a document entitled "2005 Medical Examination Report for Commercial Driver Fitness Determination," dated June 21, 2005, produced by DHL and bates stamped as DHL 50028-35.

41. Attached hereto as Exhibit NN is a true and correct copy of Steven Avvento's

termination letter from Jeffrey Sidorski, dated September 29, 2006, produced by DHL and bates stamped as DHL 49156.

42. Attached hereto as Exhibit OO is a true and correct copy of Steven Avvento's Step 2 grievance form, dated September 29, 2006, produced by DHL and bates stamped as DHL 49157.

43. Attached hereto as PP is a true and correct copy of Steven Avvento's Step 3 grievance form, dated September 29, 2006, produced by DHL and bates stamped as DHL 49154.

44. Attached hereto as Exhibit QQ is a true and correct copy of a chart of Joseph Colabella's discipline history and attendance history, produced by DHL and bates stamped as DHL 49149.

45. Attached hereto as Exhibit RR is a true and correct copy of Vincent Fusco's termination letter from Jeffrey Sidorski, dated November 3, 2005, produced by DHL and bates stamped as DHL 49211.

46. Attached hereto as Exhibit SS is a true and correct copy of Raymond Yearwood's termination letter from Jeff Weiner, dated February 14, 2006, produced by DHL and bates stamped as DHL 50039.

47. Attached hereto as Exhibit TT is a true and correct copy of Joseph Pisicchio's termination letter from Nick Dubanos, dated January 14, 2005, produced by DHL and bates stamped as DHL 50062-63.

48. Attached hereto as Exhibit UU is a true and correct copy of Kenton Cameron's termination letter from Gennaro Gigante, dated March 31, 2006, produced by DHL and bates stamped as DHL 50081.

49. Attached hereto as Exhibit VV is a true and correct copy of James Fitanzo's

termination letter from Gennaro Gigante, dated March 31, 2006, produced by DHL and bates stamped as DHL 50082.

50. Attached hereto as Exhibit WW is a true and correct copy of Robert Benedetto's termination letter from Gennaro Gigante, dated March 31, 2006, produced by DHL and bates stamped as DHL 50083.

51. Attached hereto as Exhibit XX is a true and correct copy Ken Quiroz's termination letter from Patrick Brennan, dated April 5, 2006, produced by DHL and bates stamped as DHL 50107.

52. Attached hereto as Exhibit YY is a true and correct copy of Vincent Wiggins' termination letter from Edward Utz, dated March 23, 2006, produced by DHL and bates stamped as DHL 50117.

53. Attached hereto as Exhibit ZZ is a true and correct copy of Roger Vega's Step 3 grievance form, dated June 30, 2004, produced by Defendant Local 295 and bates stamped as L295-63.

Dated: February 20, 2009  
New York, New York



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Andrew S. Goodstadt

**CERTIFICATE OF SERVICE**

I hereby certify that a true and copy of the foregoing Affirmation of Andrew S. Goodstadt in Support of Defendant's Motion for Summary Judgment, dated February 20, 2009, and all attachments thereto, was served via overnight delivery, this 20<sup>th</sup> day of February 2009, upon the following counsels:

To: Kosta K. Kollef, Esq.  
Law Office of Michael G. O'Neill  
30 Vesey Street, 3rd Floor  
New York, New York 10007

*Counsel for Plaintiff Dino Paladino*

Joshua S.C. Parkhurst, Esq.  
Cary Kane LLP  
1350 Broadway, Suite 815  
New York, New York 10018

*Counsel for Defendant International Brotherhood of Teamsters Air Freight  
Chauffeurs, Handlers, Warehousemen & Allied Workers Union No. 295*



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Cindy E. Uh

Dated: New York, New York  
February 20, 2009